

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MORTON GROVE)
PHARMACEUTICALS, INC.)
)
 Plaintiff,) No: 08-CV-1384
)
 v.) Judge Bucklo
) Magistrate Judge Mason
THE NATIONAL PEDICULOSIS)
ASSOCIATION, INC.,)
)
 Defendant.)
)

**MORTON GROVE PHARMACEUTICALS, INC.'S
MOTION FOR ENTRY OF A PROTECTIVE ORDER**

Morton Grove Pharmaceuticals, Inc. ("Morton Grove"), by its attorneys, hereby moves pursuant to Federal Rule of Civil Procedure 26(c) for the entry of the attached Protective Order, to prevent the inappropriate dissemination of confidential information produced by the parties during discovery. In support of its motion, Morton Grove states as follows:

1. This case is the re-filing of a case previously before this Court, *Morton Grove Pharmaceuticals, Inc. v. Ecology Center, Inc. et al.*, No. 06-CV-3815, which involved both current parties. In that case, this Court entered a Protective Order (No. 06-CV-3815, Dkt. No. 121, 122), and approximately 50,000 pages of documents were produced pursuant to its protections.

2. On March 26, 2008, this Court granted Morton Grove's motion to continue discovery from the previous case. (Dkt. No. 20.) In that same Minute Order, however, the Court denied Morton Grove's motion for a Protective Order. *Id.* Morton Grove seeks this Court's guidance as to whether the prior Protective Order continues to govern this action or whether a new Protective Order should be entered.

3. Morton Grove has and will continue to produce documents which merit protection under the Protective Order. Accordingly, the same concerns that motivated Morton Grove's previous motion for a Protective Order remain: during the course of discovery, non-public, confidential, and proprietary documents and information about Morton Grove's products Lindane Lotion and Lindane Shampoo will be produced. This non-public, confidential, and proprietary information may include chemical and manufacturing details, research and development data and plans, business plans, sales and revenue figures, customer lists, and agreements with third parties containing sensitive business information. Therefore, good cause exists to enter the attached narrowly drawn Protective Order.

4. This information is competitively sensitive, as Morton Grove is a private company in a competitive market for lice and scabies treatments. Morton Grove will be irreparably damaged if this information is obtained by a competitor or new entrant to the market.

5. The attached Protective Order is narrowly tailored to protect only what constitutes legitimate trade secrets and/or confidential research, development, and/or business information that may appropriately be protected. *See Fed. R. Civ. P. 26(c)(1)(G).*

6. The attached Protective Order contains the same provisions as the previous Protective Order, save for the addition of Paragraph 13, which indicates that documents marked "Confidential" under the previous Protective Order are to also be considered confidential. The previously-granted Protective Order is attached as Exhibit B.

7. Prior to filing this motion, counsel for Morton Grove and the NPA met and conferred in-person on April 15, 2008. The NPA was not willing to allow Morton Grove to file the Protective Order attached as Exhibit A, which mirrors the Protective Order entered by the Court in the prior action, as an agreed order. The NPA, however, did agree to treat all

documents produced in the prior action and this action as confidential until such time as the Court resolves this motion.

WHEREFORE, Morton Grove respectfully request that this Court enter the Protective Order that is attached hereto as Exhibit A or enter an Order indicating that all documents produced in this action shall be governed by the Protective Order entered in the prior action (No. 06-CV-3815).

MORTON GROVE PHARMACEUTICALS, INC.

By: /s/ William C. O'Neil
One of its Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April 2008, I caused to be served a copy of **Morton Grove Pharmaceuticals, Inc.'s Motion for Entry of a Protective Order** to be served on counsel of record via ECF electronic filing:

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